

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13051 of Norair Realty Co., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3104.44 to continue to operate a parking lot in an R-5-B District at the premises 1122 - 23rd Street, N. W., (Square 37, Lot 841).

HEARING DATE: November 28, 1979

DECISION DATE: December 5, 1979

FINDINGS OF FACT:

1. The application was scheduled initially for a public hearing on September 19, 1979 but was continued to the public hearing of October 17, 1979 since the owner of the parking lot was not available. On October 17, 1979, the application was continued to the public hearing of November 28, 1979 because of the lateness of the hour.

2. The subject parking lot is located on the west side of 23rd Street between L and M Streets, N.W. and is known as 1122-24 23rd Street, N. W. It is in an R-5-B District.

3. By BZA Order No. 10723, dated August 13, 1971, the Board granted the creation of the subject parking lot. It was last approved for a period of two years by BZA Order No. 12397, dated August 17, 1977.

4. The subject lot is twenty-five feet wide and 122 feet deep. It provides fourteen parking spaces for compact cars. The parking lot has row dwellings on both sides of it. The parking spaces are located on both sides of and parallel to a center driveway.

5. The hours of operation of the lot are from 7:00 a.m. to 5:00 p.m., Monday through Friday. There is an attendant. The system is a park and lock operation. Vehicles enter the lot from a rear alley and exit directly on 23rd Street.

6. The lot is used after the closing hours by surrounding facilities such as a restaurant, movie house and the neighboring residents. On week end nights it is used by a restaurant which supplies an attendant. There are no charges for the use of the lot by the neighborhood. The applicant testified that such a use of the lot was beneficial to the neighborhood since it kept some cars off the street thus easing the parking problem.

7. The owner of the subject lot has another parking lot across the street from the subject lot. It is an attended parking lot and the attendant can observe the subject lot.

8. Approximately twelve of the fourteen parking spaces are used by employees of the Washington Bureau of the New York Times. The Times Office headquarters is approximately five blocks from the subject parking lot. By letter of October 9, 1979, nine of the Times employees stated that they worked long and unpredictable hours and that the subject lot provides them the opportunity to come and go at any hour, a convenience which is not available on any other lot in the downtown area.

9. The applicant has no immediate plans for the subject lot. He testified that he is waiting for the neighborhood in general to commence some development. The applicant requested that the subject parking lot be continued for one year.

10. The applicant offered no evidence that the continued use of the parking lot would not result in dangerous or otherwise objectionable traffic conditions other than his tenants come and go at different hours.

11. The applicant offered no evidence that the continued use of the parking lot would not adversely affect the present character and future development of the neighborhood. He did testify that he would await any changes in the neighborhood before he made any final plans for the future of the subject lot.

12. Pursuant to Paragraph 3104.44 the application was referred to the DOT for their review and report. No report was received.

13. The Dupont Circle Citizens Association opposed the application on the grounds that there was no dearth of parking facilities in the subject neighborhood, that the lot was a buildable residential lot, and that a dwelling had previously existed on the lot that was torn down by the applicant. The Association testified that on each side of the subject lot were row dwellings most of which were occupied and some vacant. The Association further argued that the lot was in existence since 1971 and at each renewal of the application the applicant was unable to report to the Board that any future plans for the lot had been finalized. The Board concurs in the findings of the Association as to the availability of parking in the area and the applicant's lack of diligence in preparing plans for future use of the lot. The Board does not concur with the argument that the lot could be used for residential purposes. As set forth in the conclusions of law, the applicant must meet the burden of proof for the special exception. He is not required to show that the lot cannot be used for residential purposes.

14. ANC-2A made no recommendations on the application.

15. There was no further opposition to the application.

CONCLUSIONS OF LAW:


Based on the record the Board concludes that the applicant is seeking a special exception. The Board concludes that the applicant has not met the burden of proof in establishing that he has complied with the requirements of Paragraph 3104.44 of the Zoning Regulations as stated in Findings No. 10 and 11. The Board also notes that the tenants of the lot work in an office some five blocks from the subject lot and that there are many parking lots in the immediate neighborhood. Although others use the lot in off-hours the Board concludes that this use is merely a convenience. The Board concludes that the subject lot is not reasonably necessary and convenient to other uses in the vicinity. The Board also concludes that the waiting policy of the applicant to develop the subject lot does affect adversely the present character and future development of the neighborhood. The applicant has had sufficient time since 1971 to have a more definitive plan for the subject lot. For all the above reasons this application is hereby DENIED.

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VOTE: 4-0 (William F. McIntosh, Connie Fortune, Walter B. Lewis and Leonard L. McCants to deny, Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 31 MAR 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.